REMARKS/ARGUMENTS

Claims 55, 56, 63, 64 and 66-74 will be pending. Claims 54, 57-62, and 65 are cancelled, and claims 68-74 added.

Previously, the amendment applicant submission ended with claims 48-50, but began with claim 54. The Examiner cancelled claims 48-50 sua sponte, however, this was improper.

The subject matter of these claims, i.e., those numbered as claims 48-50, were not the same as prior claims 48-50. They were simply misnumbered and should have been claims 68-70. Claims 49 and 50 are now presented as claims 72 and 73.

With respect to the new matter rejection, which was applied only to claim 58, this claim has been canceled and thus the rejection is moot, however, applicants draw the Examiner's attention to support for hybridization conditions, at page 34, lines 14-21, and for "fragment" at page 44, lines 30-35. Specifically, "fragment" refers to a nucleic acid molecule smaller than a full length tumor rejection antigen precursor, but larger than a nucleic acid molecule that encodes a tumor rejection antigen. As page 44 provides, the fragments are processed to molecules, which encode tumor rejection antigens. They have a defined function.

During the telephone interview of March 26, 2003, SPE Caputa and Examiner Davis agreed that SEQ ID NO: 18 clearly constituted a fragment of a tumor rejection antigen precursor, as well as a nucleic acid molecule which encoded a tumor rejection antigen. Applicants demonstrated this by way of U.S. Patent No. 5,405,940, which presents, as SEQ ID NO: 9, a tumor rejection antigen. Its coding sequence is given at SEQ ID NO: 8 of the '940 patent.

In the present case, if SEQ ID NO: 18 nucleotides 70-96 are compared to SEQ ID NO: 18 of the '940 patent, they will be seen to be identical. Further since SEQ ID NO: 18 of the present case is clearly larger than the amino acid sequence needed to encode a tumor rejection antigen, it is a fragment as defined in the claims.

The Examiners agreed that claims 55 and 56 were free of the enablement scope,

and written description rejections set forth in the final rejection. If this is the case, then claims dependent on these claims, including claims 63, 64, 66, 67, 68, 69, 70, 73 and 74 should be deemed free of these rejections as well.

With respect to the prior art rejection of claim 55, applicants pointed out that the specification via, e.g., page 44, clearly defines a "fragment" as being larger than a sequence which codes a tumor rejection antigen. The reference relied upon by the Examiner describes a 10 mer oligonucleotide, which is clearly too small to be a "fragment" as defined by the specification. The Examiners agreed. Hence, the prior art rejections should be moot.

All issues have been addressed in this amendment. Allowance of the application is believed proper and is urged.

Should allowance not be forthcoming, then the Examiner should confer with the SPE (SPE Caputa) and a conference call with the undersigned should be arranged.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-0624, under Order No. NY-LUD 5353.7-DIV-US from which the undersigned is authorized to draw.

Dated: June 2, 2003

Respectfully submitted,

By _____

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